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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-eighth session

SUMMARY RECORD OF THE 1439th MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 6 March 2001, at 3 p.m.

Chairman: Mr. SHERIFIS

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The meeting was called to order at 3.15 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 6)

Fifteenth periodic report of Argentina (CERD/C/338/Add.9; HRI/CORE/1/Add.74)

1. At the invitation of the Chairman, Mr. Solari, Mr. Zaffaroni, Ms. Gonzalez, Mr. Villalpando, Mr. Cerda and Ms. Nascimbene de Dumont (Argentina) took places at the Committee table.

2. Mr. ZAFFARONI (Argentina) said that his delegation, which hoped that its dialogue with the Committee would help his Government improve its strategies and objectives, wished to take up a number of points raised by the Committee in its concluding observations (CERD/C/304/Add.39) on Argentina's fourteenth periodic report. Turning first to article 14 of the Convention, he said that Argentina continued to have reservations about individual communications, because it was already a party to the American Convention on Human Rights, which had machinery for receiving such communications and bringing them before the Inter-American Court of Human Rights.

3. With regard to the recommendation that Argentina should declare propaganda for racist ideas, incitement to racial discrimination and the establishment of racist organizations to be offences punishable by law, the previous report had apparently failed to explain that matter sufficiently. In fact, such activities had been made offences as early as 1988 by Act No. 23,592, article 3 of which stipulated that such offences were punishable by up to three years' imprisonment. In addition, article 210 of the Penal Code covered any acts that might not already fall under Act No. 23,592. Funding of such offences, although not specified in the Criminal Code, was regarded as either instigation to commit, or complicity in the commission of, an act of racial discrimination and thus fell under articles 45 and 46 of the Penal Code.

4. Concerning the amendments to article 8, paragraph 6 of the Convention, he said that, owing to the change of government in Argentina, there had been a delay in their ratification, but the current Government intended to push them through Parliament as quickly as possible. As the Convention had been incorporated into the Constitution, the latter instrument also had to be amended, and that required a large parliamentary majority, but he did not foresee any major difficulty in obtaining parliamentary approval.

5. In respect of measures taken to heighten awareness of the need to combat racial discrimination, seminars had been held to alert primary and secondary school teachers to the issues involved; 500 teachers had taken part throughout the country, and by the end of March, 1,200 teachers in the Buenos Aires Metropolitan Area were expected to have done so. The provincial governments and the teachers' unions had given strong support to that effort. The National Institute to Combat Discrimination, Xenophobia and Racism (INADI) had also held courses at Argentina's civil service institutes on the need to combat racial discrimination. An agreement had been signed with a major sporting body, the Argentine Football Association, to broadcast at stadiums spots targeting racial discrimination. Courses had been offered to police and prison personnel. With the help of famous actors, the national radio network broadcast spots

every two hours on various aspects of the subject; a similar effort was being planned for television. A conference with the participation of Argentine, Chilean and Uruguayan universities, scheduled for late March, in preparation for the forthcoming World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, showed the importance his Government attached to such issues. Scholarships had been granted for participation in research programmes on various aspects of immigration and discrimination.

6. Regarding the terrorist attack against the Argentine Jewish Mutual Aid Association, he said that, notwithstanding a number of difficulties, including the fact that some of the accused were members of the police, progress had been made in bringing the guilty parties to justice. Initial hearings had begun for the trial of 15 suspects, and the main proceedings were expected to be held by the end of the year. A local group was thought to be responsible for the attack, but it had not been possible to ascertain whether there had been any international involvement.

7. In closing, he hoped that the Committee would take into account Argentina's difficult economic situation; budgetary stringency had been required as a result of conditions imposed by international bodies for paying back the country's foreign debt.

8. Ms. GONZALEZ (Argentina) pointed out first that Argentina had ratified International Labour Organization (ILO) Convention No. 169 concerning indigenous and tribal peoples in independent countries; once that instrument came into force on 3 July 2001, it would ensure greater protection for indigenous peoples as a group than had been the case in the past. Involvement of indigenous peoples in all matters affecting them in the regions where they lived, including the right to utilize, administer and conserve natural resources on their land, was thus guaranteed.

9. The Committee had inquired about the administrative status of the National Institute of Indigenous Affairs (INAI), which was responsible for indigenous policies. On 9 August 2000, the President of Argentina had issued Decree No. 167 decentralizing INAI and incorporating it in the Secretariat for Social Development. Prior to that decision, INAI had been part of the Under-Secretariat for Social Policy. Once its new administrative structure was approved, INAI would have the status of a State secretariat.

10. As to the extent to which indigenous peoples had been consulted during the transfer of land to indigenous communities, she said that, as part of the National Plan for Indigenous Communities, a programme had been drawn up for regularizing land ownership by indigenous communities and granting them ownership rights; in Jujuy province, 1,200,000 hectares were already being transferred to indigenous communities with the participation of a commission that included indigenous persons. Further data could be made available on the subject of land transfers if the Committee so wished. Difficulties persisted, however, because of resistance from persons who owned land occupied by indigenous communities, and in a number of cases such land had been expropriated by the State. There had also been conflicts with provincial governments, particularly in connection with the Wichi community; the central Government was doing everything it could to convince those provinces to accept the land transfers and was in constant contact with the association representing the landowners concerned.

11. With regard to indicators for the participation of indigenous persons in the police, the courts, Parliament and, more generally, the social and economic life of the country, she said that Argentina was currently completing a census of indigenous persons. Owing to budgetary constraints, a census of the entire population scheduled for 2000 had not been completed; hence the difficulty of providing the Committee with the figures requested. It was hoped that an indigenous census could be concluded soon.

12. Mr. VALENCIA RODRIGUEZ (Country Rapporteur), thanking the delegation for updating the fifteenth periodic report, which had been produced in 1999, noted that the country's economic difficulties had not been overcome; the gross domestic product had declined and unemployment had risen. Those economic problems had a particularly heavy impact on indigenous groups, which constituted a significant proportion of the population, and on ethnic minorities.

13. International instruments, including the Convention, were the supreme laws of the land. Pursuant to a Supreme Court decision of 7 July 1992, those instruments took precedence over domestic legislation. He understood that to mean that the Convention could be invoked directly in Argentine courts.

14. He noted that there were a number of bodies, governmental and parliamentary, which dealt with human rights; it was important to ensure that they coordinated their work so as to prevent duplication of effort. The Committee appreciated the wealth of information provided in the report on the National Institute to Combat Discrimination, Xenophobia and Racism (INADI). Paragraph 11 gave an account of that body's activities in the five months of its existence. He requested more up-to-date information on its activities since then. Were indigenous communities and other minority groups represented in INADI's board of directors (para. 7)?

15. According to the 1991 census, the Argentine population was still composed largely of Europeans or their descendants. With the recent increase in immigration from neighbouring countries, the conclusion of agreements with countries such as Bolivia and Paraguay to streamline immigration procedures was a welcome development. He asked whether article 25 of the 1853 Constitution was still in force and, if so, to what extent it was still implemented in practice. It was to be hoped that the Government's immigration policy eschewed discriminatory criteria based on racial, ethnic or national origin.

16. He invited the delegation to comment on complaints that poor immigrants, especially from neighbouring countries, were required to pay high fees for residence papers and were hampered by bureaucratic immigration procedures. There had also been reports of discriminatory treatment of asylum-seekers and refugees. He recommended that the authorities review the situation and consider acceding to the 1961 Convention on the Reduction of Statelessness, which would promote the integration of refugees by ensuring that the granting of citizenship was based on established legal principles.

17. He was pleased to hear about the presidential decree issued for the establishment of the National Institute of Indigenous Affairs (INAI). The Committee would appreciate additional information about the practical impact of the cooperation agreements concluded by INAI with provinces with aboriginal settlements. Listing a number of areas on which the Institute should

focus in the future, he said that the migration of indigenous peoples to urban areas should not lead to the erosion of their cultural values or to impoverishment. The important role of the Defender-General of the Nation in asserting the rights of indigenous peoples under customary law and defending their interests from attack by powerful political or economic groups should be recognized. The practice of consulting indigenous communities about issues affecting them should be consolidated. Action to secure recognition of the legal personality of indigenous communities should be continued. Projects to enforce the right to bilingual and intercultural education should be intensified, particularly through the Intercultural Educational Community and indigenous community workshops.

18. Major steps had been taken to secure the traditional ownership of land. At the same time, the possibility of individual ownership should not be ruled out. The Committee was still seriously concerned about the existing situation and drew attention to its General Recommendation XXIII. According to the report, the handing over of land was subject to the principles of inalienability, unseizability and non-transferability. What were the implications of those restrictions for rights of inheritance? What stage had been reached in the process of mediation for the settlement of disputes affecting the communities in the Pulmari area (Neuquén province), the Kolla communities (Salta province) and the Mapuche Vera community (Neuquén province)? Efforts to involve indigenous communities in the management of natural resources, especially through sustainable development projects, should be stepped up. He asked whether the obstacles impeding the implementation of social security systems referred to in paragraph 88 of the report had been overcome. Coverage for the groups mentioned in the paragraph should gradually be extended. It was to be hoped that the Government's present and future action to mitigate the poverty of indigenous communities and minority groups, which had been exacerbated by globalization and other factors, would prove effective.

19. He reiterated the Committee's previous request (CERD/C/304/Add.39) for information about the representation of indigenous communities and ethnic minorities in the civil service, the police, the judicial system, the Congress and the socio-economic life of the country in general. Women in general, and indigenous women and women belonging to minority ethnic groups in particular, continued to suffer discrimination, especially in employment. Steps should be taken to address existing disparities.

20. While he had taken note of the delegation's statement regarding Act No. 23,592 of 1998, he stressed that its provisions were still not entirely in line with the basic requirements of article 4 of the Convention. With regard to article 5, he welcomed the Supreme Court's interpretation of the word "inhabitant" as covering both Argentine nationals and foreigners and its recognition of the legality, in the light of article 16 of the Constitution, of any special measures taken on behalf of vulnerable groups.

21. Referring to the information in paragraph 115 regarding progress in respect of the right to nationality, he asked for information concerning citizens who had been deprived of their Argentine citizenship for purely political reasons and whose cases had not yet been settled. He encouraged the Government to keep the Committee informed of progress in dealing with complaints falling under article 6 of the Convention, especially the work of the INADI

Complaints Centre. It would also welcome information about other remedies for victims of discrimination, such as recourse to the Ombudsman (Defensor del Pueblo) or amparo or habeas corpus proceedings.

22. The Special Rapporteur of the Commission on Human Rights on contemporary forms of racism, racial discrimination, xenophobia and related intolerance had referred in a report dated 8 September 1999 (A/54/347) to racist and xenophobic organizations in Argentina, meetings of neo-Nazi groups and a political party - the National Workers' Party - with racist tendencies. According to the 1999 Report of the United States Department of State, discrimination against indigenous peoples persisted and there had been a number of cases of anti-Semitism. What action had been taken to address those problems?

23. With regard to article 7 of the Convention, he welcomed the activities in the areas of training, promotion and dissemination undertaken by the Ministry of the Interior and INADI. In the light of reports of police brutality throughout the country, he recommended that special attention should be given to the Convention in courses or seminars for members of the police and armed forces. The Convention, the report and the Committee's concluding observations should be widely disseminated, particularly among indigenous communities and minority groups.

24. He reiterated the Committee's request to the Government of Argentina to consider making the declaration under article 14 of the Convention and to complete the process of ratification of the amendments to article 8 of the Convention.

25. Mr. de GOUTTES, commending the Government of Argentina on its regular submission of reports to the Committee, asked what exactly was the status of international treaties under Argentine law. According to paragraph 3 of the report, the Constitution and international treaties had the same standing, were complementary and could not supplant or cancel one another, whereas, according to the preceding report (CERD/C/299/Add.11), treaties were considered, under article 75, paragraph 22, of the Constitution, to rank higher than domestic law and their provisions could be invoked before the courts.

26. He gathered from paragraph 6 of the report that INADI had very wide powers, but it seemed from paragraph 7 that all its members came from the executive branch. Paragraph 8, on the other hand, referred to plans to establish an advisory council of persons representing non-governmental organizations (NGOs) specialized in combating discrimination. Had the council been established in the meantime? He too would appreciate an update of INADI's activities covering the period since the submission of the report.

27. He wondered how INAI could have carried out all the activities described in the report although it had not been legally established for budgetary and other reasons. What stage had been reached in the legislative reform based on indigenous participation referred to in paragraph 28?

28. With regard to article 4 of the Convention, he asked for practical examples of the implementation of Act No. 23,592 of 21 August 1998, which increased the penalties in the Penal Code for offences motivated by racism.

29. It was regrettable that Argentina had failed to respond to the Committee's request in paragraph 22 of its concluding observations on the previous report for information on the situation of the members of indigenous communities and ethnic minorities, as such data were an important tool for evaluating programmes on behalf of vulnerable sectors of the population. He likewise regretted the lack of statistics regarding prosecution for racist acts. He also noted with concern that the proceedings in a number of cases involving racism, especially those for acts of anti-Semitism perpetrated in 1992 and 1994, had not been completed. According to the delegation, a final decision in the latter cases was expected by the end of the year. He inquired about the reasons for the delay. With regard to article 6 of the Convention, he commended the establishment of a free telephone line to receive complaints of racial discrimination.

30. According to some NGOs, the economic recession and increasing unemployment had recently led to an upsurge in xenophobia, especially against immigrants from neighbouring countries, refugees and asylum seekers (including many from Eastern Europe and Cuba) and descendants of African immigrants. Many immigrants were reportedly held in administrative detention for indeterminate periods, with no possibility of judicial review by the immigration authorities. He would welcome the delegation's response to those allegations.

31. Mr. FALL said he associated himself with Mr. de Gouttes' question about the status of international treaties in Argentine law. He welcomed the provisions of article 11 of the Constitution of the Autonomous City of Buenos Aires cited in paragraph 4 of the report and recommended that similar provisions should be adopted for the country as a whole. Noting from paragraph 31 of the report that no up-to-date census information was available on the ethnic composition of indigenous communities, he urged the Argentine authorities to make a serious effort to compile statistics in time for its next periodic report to the Committee.

32. Paragraph 92 stated that the areas where indigenous communities lived were those with the highest levels of unmet basic needs. He understood at the same time that the authorities were encouraging immigration, especially from European countries. How could such a policy be justified when high unemployment rates were being recorded among indigenous communities? Should their development and protection not be given priority under article 2 of the Convention? He was curious to note the absence of any reference in the statistics provided in the report to persons of African origin. Could the delegation account for that omission?

33. Mr. PILLAI drew attention to paragraph 13 of the report which referred to the spirit of openness of the Argentine Republic in welcoming foreigners and its sound tradition on the question of migration. But the bulk of the report dealt with indigenous peoples and there was little information about ethnic diversity in the non-indigenous population. According to paragraph 15, Argentina had hosted a considerable number of refugees and displaced persons in the previous 80 years. He would be interested to hear about their current situation, including their ethnic diversity and the extent to which they and their descendants enjoyed the guarantees provided in human rights treaties. What mechanisms existed to ensure the effective implementation of the Convention and how well were they functioning?

34. He too stressed the need for up-to-date census information. Referring to paragraph 40 of the report, he asked whether the lack of legal personality as indigenous communities had implications for their enjoyment of socio-economic benefits and for government action on their

behalf. With regard to land ownership by indigenous communities and INAI's responsibilities in that regard as described in paragraph 58 of the report, he asked whether there were any criteria to identify land that was suitable and sufficient for human development, how the respective land needs of communities and individuals were to be identified and what consideration was given in that context to the productivity of the land concerned.

35. Mr. DIACONU said that the report and the introductory statement by the delegation provided interesting information on legislative and institutional developments that had occurred in Argentina in line with the Convention and would be found useful by countries both in Latin America and in other regions. Paragraphs 2, 3 and 105 of the periodic report suggested that only some international treaties enjoyed constitutional ranking. Was the Convention one of them, and if not, what were the implications for its implementation in domestic law?

36. The very important concept of the recognition of the ethnic and cultural pre-existence of the indigenous populations was well covered in the report, with information (paras. 37 et seq.) concerning relevant programmes in education and also for the restitution of indigenous lands. However, apparently not all such programmes had proved successful. According to a report published by ILO in March 2001, the Mapuche communities of Pulmari were still denied access to their land; moreover, the building of a bridge over the river Pilcomayo would adversely affect the local indigenous community. He would welcome some clarification in that connection. He commended cooperation between the Governments of Paraguay, Uruguay, Bolivia and Argentina on the Paraguay-Paraná Waterway in an effort to protect the indigenous populations living on the banks of those two rivers. It served as an example to be followed by countries in other regions. Notwithstanding the large number of programmes undertaken, the areas traditionally inhabited by the indigenous communities reportedly (para. 94) remained the most deprived and should therefore be the focus of attention.

37. Since Argentine NGOs had reported cases of racist attacks against black foreigners visiting the country, he wondered about the numbers and situation of the local black population - descendants of the African slaves brought to the country in the nineteenth century.

38. With respect to article 3 of the Convention, the report (para. 97) referred solely to the question of apartheid. However, the article also covered segregation. Member States were duty bound to combat social segregation, which was one of the causes of racial discrimination. As to article 4, the report (paras. 98-99) failed to address the need to ban organizations that encouraged and practised racial discrimination. It was not merely a matter of punishing the members of such organizations, but also preventing their coming into being. In conclusion, he was surprised by a reported decision by the Supreme Court of Justice to overturn a lower court conviction of a group of skinheads for a racist act in 1995 against a youth believed to be Jewish, on the grounds that the anti-Semitic expressions used by the group were their customary war cry. In his view, such an act warranted punishment.

39. Mr. THORNBERRY said the report raised many interesting points that warranted further consideration. He shared concerns expressed about the constitutional ranking of human rights instruments. However, aside from the status of the Convention itself, he wished to know more about other non-treaty standards that were fundamental to the work of the Committee.

40. Paragraph 32 of the report listed a number of measures to deal with the increasing migration of indigenous people to urban centres. Were they intended in part to revitalize the cultural traditions of indigenous populations, along the lines of the Committee's General Recommendation XXIII? With reference to the information provided in paragraph 30, and noting Argentina's ratification of ILO Convention No. 169, he stressed that traditional occupation of land created international rights, which could not be disposed of by domestic law arguments concerning the notion of encroachment. In its description of intercultural education, the report focused on educational activities targeted at the indigenous population. However, he understood the word intercultural as meaning something mutually beneficial. To what extent was the population at large encouraged to learn about the culture and history of the indigenous population? According to paragraph 43, the granting of legal personality to indigenous communities hinged on recognition of their pre-existence. He asked what criteria were used to establish such pre-existence and whether, for instance, oral evidence was among them. Since ethnogenesis was a long and ongoing process, Argentina's insistence on fixing a point in time before granting such rights did impose a limitation.

41. Mr. ZAFFARONI (Argentina) said that his delegation would be replying to most questions at the following meeting. However, in view of the concerns expressed by many Committee members, he wished to clarify the status of international treaties vis-à-vis Argentine domestic legislation, by explaining the political background to and interpretation of article 75, paragraph 22, of the new Constitution, in effect since 1994.

42. During the period of military dictatorship, Argentina had effectively remained isolated from the international community by refusing to ratify international treaties or be part of the inter-American system. Following the re-establishment of a constitutional government, between 1984 and 1985 Argentina had ratified virtually all of the international human rights instruments and had decided to recognize the jurisdiction of the Inter-American Court of Human Rights. Such action had nonetheless prompted considerable criticism from the more conservative groups on the grounds that it would undermine national sovereignty and the constitutional provision whereby the nation's supreme judicial authority was the Supreme Court of Justice. Subsequently, there had been much debate in Argentine legal circles on the merits of a monist versus a dualist approach to the law; it being recognized that the latter had been abandoned by most nations, since it had essentially been used by colonial powers to avoid granting the rights protected by treaties to the inhabitants of their colonies. The problem in Argentina had been that, on account of its federal system, the status of international treaties had not always been recognized by provincial courts. Although the 1992 Supreme Court judgement in the Ekmekdjian v. Sofovich case had supported the monist theory, it had not entirely resolved the problem, since further action by the Supreme Court could have resulted in a return to the dualist approach. In order to close the debate once and for all, in the 1994 constitutional reform, article 75, paragraph 22, had been introduced, whereby the main international human rights instruments (see para. 44, document HRI/CORE/1/Add.74), including the Convention, had been deemed as having constitutional rank.

43. The remainder of the provision to the effect that such treaties did not derogate from any article of the first part of the Constitution, and must be interpreted as complementary to the rights and guarantees recognized thereby, was understood in Argentine jurisprudence as meaning that the texts of such international treaties could by no means be interpreted as restricting or

diminishing the basic declaration of rights enshrined in the Constitution of 1853. Other international treaties, which did not deal specifically with human rights issues, had a lower status vis-à-vis the Constitution. In the event of conflict with the Constitution such treaties or the laws ratifying them could be declared unconstitutional by the Supreme Court of Justice, or indeed by any Argentine judge of lower rank.

44. The delegation of Argentina withdrew.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 4) (continued)

Appointment of a convenor for the working group on communications

45. Following a proposal by Mr. FALL, supported by Mr. BOSSUYT, the CHAIRMAN said he would take it that the Committee wished to appoint Mr. de Gouttes as convenor of the working group on communications to replace the outgoing member Mr. Nobel. Stressing the open-ended nature of the working group, he encouraged input from other Committee members aside from the three constituent members.

46. It was so agreed.

Procedure for the consideration of concluding observations

47. The CHAIRMAN said that, following the closure of the fifty-seventh session, he had received a complaint from the Permanent Mission of the United Kingdom to the United Nations in Geneva to the effect that the United Kingdom Government had been apprised of the Committee's concluding observations and recommendations concerning the United Kingdom report via the press and media and not via its diplomatic mission in Geneva, as was standard practice. It had transpired that the Department of Public Information (DPI) had issued press releases on certain concluding observations and recommendations before their finalization and adoption by the Committee. He had apologized to the United Kingdom Permanent Mission, explaining that the press officers did not receive instructions from the Committee. In the past, some Committee members had complained about the press releases, but the Committee could do nothing on either count, given the need to observe freedom of the press. In order to avoid the recurrence of such incidents, he suggested that the Committee should review its current working methods for the consideration of concluding observations and take a decision on future practice during the present session. It was worth noting that most other treaty bodies discussed concluding observations of State party reports in closed meetings.

48. Mr. BOSSUYT said that it should be impressed upon the State party in question that the Committee was not at fault. Its concluding observations were discussed at public meetings open to anyone, including any delegation concerned. Did the State party claiming to have been victimized have a delegation so small as to be unable to cover all committees meeting in Geneva?

49. The CHAIRMAN asked whether members felt the Committee should continue to consider concluding observations in public meetings or discuss them in camera as other monitoring bodies did?

50. Mr. DIACONU remarked that a State party should receive the text of the Committee's concluding observations on its report at least at the same time as the press and the public, with nothing published until the very last day of a session. He asked whether the Secretariat was in a position to ensure that State parties received them on that day. It was true that concluding observations were available at the United Nations to anyone who took the time to obtain them. At the same time, to discuss them in camera - the option he favoured - had the clear advantage of enabling Committee members to express their views more freely.

51. Mr. de GOUTTES said the problem that had arisen in connection with the United Kingdom was a delicate one. States parties' legitimate interests must be taken into account, but so must the Committee's effectiveness and the practices of other treaty bodies. One advantage of the practice used thus far in the Committee was that it made for an adversarial atmosphere, enabling the delegation to adduce further arguments and explanations. However, in the light of recent events, it obviously had the disadvantage of allowing the content of concluding observations to be publicized prior to their finalization and adoption. Many States were seeking reforms of the human rights monitoring bodies; the Committee therefore had reason to be concerned about their potential proposals. It would also be prudent to align the Committee's practice with that of the other treaty bodies, thus avoiding divergent procedures among United Nations bodies. In short, the disadvantages of public discussion outweighed the advantages. The in camera option would afford a more frank and open debate by the Committee and prevent draft concluding observations from being leaked.

52. The CHAIRMAN said that a review of the practice of the other treaty bodies undertaken at his request showed that they all discussed their concluding observations in camera, with certain variations: the Committee against Torture read out the final text of its concluding observations in a public meeting; the Committee on the Rights of the Child informally adopted the text in private session, apprised the State party of its contents and formally adopted it once more on the last day of the session in a public meeting; while the Committee on Economic, Social and Cultural Rights released its concluding observations to the press on the last day of a session.

53. Mr. ABOUL-NASR said that the Committee had been the first of the monitoring bodies; it could be proud of its work and had no need to emulate those that had been constituted later. Some States parties, once they had presented their reports, neglected to attend other meetings, but that did not prevent them from filing complaints against Committee members; he himself had been the victim of such a complaint to his Government. While he had no strong feelings on the matter, he would prefer the current practice to be maintained. It was no secret that the Committee was there to express its dismay at non-compliance with the Convention and there was accordingly no call for excessive prudence. Article 9 of the Convention provided that State parties must be notified of the concluding observations on their reports, so that their comments could be submitted to the General Assembly at the same time as the Committee's suggestions and recommendations. Any State party was free to protest. It could be argued that the Department of Public Information had erred, but, had the United Kingdom been sufficiently interested, it could have sent a delegation to the meeting at which the concluding observations had been discussed, thus obviating the problem that had arisen.

54. Mr. RECHETOV, endorsing the views expressed by Mr. Bossuyt and Mr. Aboul-Nasr, said that the method currently used in the Committee had the virtue of transparency, since a State party's report was considered in the presence of its delegation, followed by a public meeting at which pains were taken to ensure that the concluding observations reflected what had occurred during consideration of the report. Any discussion of concluding observations in a private meeting could lead to the inclusion of matters that had not been discussed in public. He disagreed with Mr. Diaconu's reservation, since there should be no fear of frank speaking in a public meeting where human rights were concerned. He was against emulating other treaty bodies for fear of criticism by the would-be reformers of the United Nations human rights bodies. He supported Mr. de Gouttes' view that the State party and the public should be officially apprised of the contents only once they had been finalized.

55. Mr. SHAHI said that what was most important was the need for a finely balanced approach. Nothing should be published in the press while the concluding observations were still in draft form. Only upon formal adoption should they be submitted to the State party concerned and made public.

56. The CHAIRMAN pointed out that it was not a question of going to press. The fact was that DPI was present at such meetings and issued press releases.

57. Mr. YUTZIS said that the main issue was that Committee members should maintain maximum independence as experts. While the argument for discussing concluding observations in camera was to avoid the explicit and implicit pressures that could obviously be exerted on Committee members, he felt strongly that the Committee should express its views in public. A turn of phrase could always be altered or an emphasis changed. What could not be changed was what had been said. Indeed, strong views had at times been expressed in public discussions of concluding observations. At others, views more favourable to the State party had been aired. Moreover, the press often grossly misrepresented the proceedings of meetings. He was therefore convinced that the current procedure was the best.

58. Mr. BOSSUYT said he was against a change of procedure. He understood the embarrassment of the British authorities, which had rightly communicated their disapproval. However, the United Kingdom delegation, and not the Committee, bore the responsibility. He could not see why the Committee was accepting blame when a State party with a delegation sufficiently large to have followed the work of the Committee had failed to do so. He agreed with Mr. Aboul-Nasr that the Committee, as the oldest of the treaty bodies, would be taking a retrograde step if it were to adapt its practices to those of subsequently established bodies. As Mr. Yutzis had pointed out, much stronger sentiments were often expressed in Committee members' personal statements than in the concluding observations, the text of which was often considerably diluted by the country rapporteur before the discussion stage. The Committee could, however, make a point of inviting delegations concerned to attend meetings at which concluding observations on their reports were to be discussed.

59. Mr. FALL said that the fact that the Committee had been the first of its kind did not automatically make its practices the best. He was in favour of adopting the in camera procedure. Consideration of reports comprised two phases: first, a public meeting in which a State party presented its report, which was discussed by the Committee; second, a lively discussion among

Committee members concerning concluding observations. If the Committee did not speak with one voice, then that discussion should not take place in public. If it were held at a private meeting, members could frankly express their views and maintain their independence; there was no need for anyone to know exactly how those conclusions had been reached; and there would be no need to ensure that the State party received the text before it was made public.

60. Mr. TANG Chengyuan said that the overriding aim should be to ensure that States parties redoubled their efforts to improve their implementation of the Convention. Concluding observations were not an isolated feature, but flowed from the discussion of the report. He was therefore in favour of maintaining public discussion and, in so doing, the Committee's transparency.

61. Ms. JANUARY-BARDILL said that it was helpful to learn what other committees were doing and agreed with Mr. Fall that there was no need to adhere to historical practices. While the matter clearly called for further discussion, an open process could sometimes compromise Committee members' independence without, in the end, significantly increasing transparency. She also agreed that nothing in draft form should be released to the press.

62. The CHAIRMAN requested members to reflect on the matter for further discussion in due course, inviting Mr. Shahi to prepare a draft text for the Committee's consideration.

The meeting rose at 6.05 p.m.